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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 WESLEY RUSSELL, SR.,

11 Petitioner,

No. CIV S-04-2244 FCD GGH P

12 vs.

13 CHARLES PLUMMER,

14 Respondent.

ORDER

15 _____/
16 Petitioner, a state prisoner proceeding pro se, has filed an application for a writ of
17 habeas corpus pursuant to 28 U.S.C. § 2254. The matter was referred to a United States
18 Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local General Order No. 262.

19 On September 2, 2005, the magistrate judge filed findings and recommendations
20 herein which were served on all parties and which contained notice to all parties that any
21 objections to the findings and recommendations were to be filed within twenty days. Neither
22 party has filed objections to the findings and recommendations.

23 The court has reviewed the file and finds the findings and recommendations to be
24 supported by the record and by the magistrate judge's analysis. Accordingly, IT IS HEREBY
25 ORDERED that:

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3. In the alternative, the petition is dismissed pursuant to Federal Rule of Civil Procedure 41(b) and for petitioner's failure to prosecute.

/s/ Frank C. Damrell Jr.
FRANK C. DAMRELL JR.
United States District Judge